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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,388	07/09/2003	Shinji Mori	740165-355	8490
22204	7590	03/01/2006	EXAMINER	
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			DUNN, DAVID R	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,388

Applicant(s)

MORI ET AL.

Examiner

David Dunn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 6,9-11 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7,8,12,16-19,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 3,4,13,14 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/10/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This Office Action is responsive to the amendment filed December 20, 2005.

1. Claims 6, 9-11, and 15 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 23, 2005.

Information Disclosure Statement

2. The information disclosure statement filed 2/10/06 is acknowledged. See enclosed IDS form.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5, 7, 8, 12, 18, 19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 20115316 U1 (Note US Pub. No. US 2003/0052209 A1 is equivalent for English translation).

DE 20115316 discloses a webbing retractor for an belt comprising: a take-up shaft (10); a driven shaft (12); a prime mover (24); a rotating member (34); an urging member (36) for urging

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the rotating member in a direction of rotation of the prime mover rotating body (see Figure 3a); connecting members (26); a driving mechanism (46; see Figure 2); and a braking mechanism (38 & 42). As seen in Figure 1, the driven shaft is rotatably connected integrally with the take-up shaft. As seen in Figures 3a-3c, the connecting members 26 can approach and move away from the driven shaft. Regarding claim 18, braking member 42 applies a frictional force to the rotating member. A rotational transmitting mechanism (44) is provided between the output shaft and the prime mover rotating body. The braking member (42) includes a radially moveable friction member that applies radial pressure to the prime mover rotating body (see Figure 2). The urging member is elastically deformable to a certain degree.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 20115316 in view of Yanagi et al. (5,788,281).

DE 20115316 is discussed above but fails to show the control unit controlling the driving mechanism.

Yanagi et al. teaches a control unit (42) which controls operation of the driving mechanism (40) which includes a vehicle speed sensor (70) to detect the vehicle deceleration.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DE 20115316 with the teachings of Yanagi et al. to provide a control unit to control the retractor based on the vehicle deceleration to better protect the occupant. Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was made to control the driving mechanism based on sensed distance as is old and well known in the art.

Allowable Subject Matter

7. Claims 3, 4, 13, 14, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment

8. The Declaration filed on December 20, 2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the DE 20115316 U1 reference.

The DE 20115316 reference is a statutory bar under 35 U.S.C. 102(b) and thus cannot be overcome by an affidavit or declaration under 37 CFR 1.131.

A rejection under 35 U.S.C. 102(b) cannot be overcome by affidavits and declarations under 37 CFR 1.131 (Rule 131 Declarations), foreign priority dates, or evidence that applicant himself invented the subject matter. Outside the 1-year grace period, applicant is barred from obtaining a patent containing any anticipated or obvious claims. In re Foster, 343 F.2d 980, 984, 145 USPQ 166, 170 (CCPA 1965). MPEP 2133.02.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Dunn', with a large, stylized flourish above it.

David Dunn
Primary Examiner
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